

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD LEHMAN on behalf of himself and others similarly situated,

Case No. C13-1835RSM

Plaintiffs,

V.

ORDER GRANTING MOTION FOR
APPROVAL OF SUPERSEDEAS BOND
AND ORDER OF STAY OF EXECUTION

WARNER NELSON; WILLIAM BECK, JR.; BRIAN BISH; KLAAS A. DeBOER; MICHAEL G. MARSH; ROCKY SHARP; RICHARD BAMBERGER; DENNIS CALLIES; CLIF DAVIS; TIM DONOVAN; HARRY THOMPSON; GARY YOUNGHANS; CLINT BRYSON; MICHAEL CHURCH; MICHAEL DOYLE; GREG ELDER; GLEN FRANZ; GARY GONZALES; CARL D. HANSON; PATRICK POWELL; GARY PRICE; SCOTT STEPHENS; ROGER TOBIN; and GRANT ZADOW, in their capacity as Trustees of the IBEW Pacific Coast Pension Plan,

Defendants.

This matter comes before the Court on Defendants' Motion for Approval of Supersedeas Bond and Order of Stay of Execution, Dkt. #109. Defendants request the Court stay execution of the Judgment pending their appeal of this case to the Ninth Circuit. *Id.* Plaintiffs do not oppose this Motion.

ORDER GRANTING MOTION FOR APPROVAL OF SUPERSEDEAS BOND AND ORDER
OF STAY OF EXECUTION - 1

1 The Court granted summary judgment for Plaintiffs and awarded damages of
2 \$1,911,116.49 in wrongfully withheld funds and \$562,016.28 in earnings thereon. *See* Dkt.
3 #74. Further, the Court awarded attorneys' fees of \$231,296.50 and costs of \$19,851.30. Dkt.
4 #105. On May 26, 2015, Defendants filed an appeal with the Ninth Circuit (case number 15-
5 35414) appealing this Court's Order on Motions (Dkt. #48), Order Granting Plaintiff's Motion
6 to Enforce or Clarify (Dkt. #63), and Order Granting Plaintiff's Motion for Damages (Dkt.
7 #74). Dkt. #88.

9 The parties have stipulated to setting the required bond amount to cover the entire
10 Judgment plus attorneys' fees. Dkt. ##109-1 at 2; 109-2. Furthermore, Defendants have,
11 contemporaneous with filing this Motion, posted a bond in the amount of \$2,872,285.64. Dkt.
12 #109-3.

14 Under Federal Rule of Civil Procedure 62(a), a district court's judgment becomes final
15 and enforceable fourteen days after judgment is entered. *Columbia Pictures Indus., Inc. v.*
16 *Krypton Broad. of Birmingham, Inc.*, 259 F.3d 1186, 1197 (9th Cir. 2001); Fed. R. Civ. P.
17 62(a). "At that time, a prevailing plaintiff is entitled to execute upon a judgment." *Columbia*
18 *Pictures Indus.*, 259 F.3d at 1197. Federal Rule of Civil Procedure 62(d) allows an appellant to
20 stay the execution of a judgment pending appeal by posting a supersedeas bond. Fed. R. Civ.
21 P. 62(d). "The stay takes effect when the court approves the bond." Fed. R. Civ. P. 62(d). The
22 purpose of a supersedeas bond is to secure an appellee from a loss that may result from the
23 stay. *Rachel v. Banana Republic, Inc.*, 831 F.2d 1503, 1505 n.1 (9th Cir. 1987). "The posting
25 of a bond protects the prevailing plaintiff from the risk of a later uncollectible judgment and
26 compensates him for delay in the entry of the final judgment." *NLRB v. Westphal*, 859 F.2d
27 818, 819 (9th Cir. 1988). "Because the stay operates for the appellant's benefit and deprives the
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1 appellee of the immediate benefits of his judgment, a full supersedeas bond should be the
2 requirement in normal circumstances.” *Fed. Prescription Serv., Inc. v. Am. Pharm. Ass'n*, 636
3 F.2d 755, 760, 205 U.S. App. D.C. 47 (D.C. Cir. 1980). District courts have “inherent
4 discretionary authority in setting supersedeas bonds.” *Rachel*, 831 F.2d at 1505 n.1.

5 The Court finds that the supersedeas bond posted by Defendants fully satisfies the
6 monetary judgment, attorneys’ fees, and costs awarded in this matter, and is sufficient to
7 protect Plaintiffs from any loss resulting from a stay of execution.

8 Accordingly, the Court hereby finds and ORDERS that Defendants’ Motion for
9 Approval of Supersedeas Bond and Order of Stay of Execution, Dkt. #109 is GRANTED.
10 Execution of Judgment shall be stayed pending the appeal.
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12 DATED this 6th day of November 2015.
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16 RICARDO S. MARTINEZ
17 UNITED STATES DISTRICT JUDGE
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